

Kevin T. Snider, State Bar No. 170988
Counsel of record
Mathew B. McReynolds, State Bar No. 234797
PACIFIC JUSTICE INSTITUTE
P.O. Box 276600
Sacramento, CA 95827
Tel. (916) 857-6900
Fax (916) 857-6902
Email: kevinsnider@pacificjustice.org
mattmcreynolds@pacificjustice.org

Peter MacDonald, State Bar No. 69789
LAW OFFICE OF PETER MACDONALD
400 Main Street, Suite 210
Pleasanton, CA 94566-7371
Tel. (925) 462-0191
Fax. (925) 462-0404
Email: pmacdonald@macdonaldlaw.net

Attorneys for Plaintiff and Real Party in Interest

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA**

INTERNATIONAL CHURCH) Case No.: CO7-03605-PJH-JCS
FOURSQUARE GOSPEL,)
Plaintiff,)
v.)
CITY OF SAN LEANDRO, MICHAEL)
J. GREGORY (in his official capacity),)
SURLENE G. GRANT(in her official) Date: September 5, 2007
capacity), DIANA M. SOUZA(in her) Time: 9:00 a.m.
official capacity), JOYSE R.) Courtroom: 3
STAROSCIACK (in her official) Hon.: Phyllis J. Hamilton
capacity), BILL STEPHES (in his)

1 official capacity), JIM PROLA (in his)
2 official capacity), JOHN JERMANIS(in)
3 his official and individual capacities),)
4 DEBBIE POLLART (in her official and)
5 individual capacities), DOES 1-50,)
6)
7 Defendants.)
8)

9)
10 FAITH FELLOWSHIP FOURSQUARE)
11 CHURCH,)
12)
13 Real Party in Interest.)
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I, Paul Gantt, do hereby declare as follows:

1. That if called upon, I could and would testify truthfully, as to my own
2 personal knowledge, as follows:

3. I spent approximately 15 years in the Fire Service, working in 4
4 jurisdictions and holding various ranks from Firefighter/Paramedic, Fire Training
5 Officer, Battalion Chief, Fire Marshal, and Deputy Fire Chief.

6. Since 1992 I have been the owner and President of my firm, one that
7 provides occupational and environmental health and safety services including
8 training and consultation programs. Additionally, we work with numerous
9 businesses around the country to help them comply with the various regulatory
10 requirements including those involving hazardous materials and wastes.

11. I am also qualified as an expert witness in a number of areas and in this
12 capacity I provide testimony and services in a number of states throughout the
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1 country on topics related to safety, hazardous materials, and regulatory compliance.

2 I am a Certified Safety Professional and a Cal-EPA certified Registered
3 Environmental Assessor.

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5 5. I read the Statement included in the Administrative Record, Exhibit A
6 §N (4), in substantially those words at the City of San Leandro Planning
7 Commission meeting on April 12, 2007.

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9 6. In light of the emphasis on hazardous materials as the basis for
10 Planning Commission denial of the Faith Fellowship request for rezone to the
11 Assembly Use (AU) Overlay District, I was asked to research the issues associated
12 with locating an assembly occupancy into an area where facilities that had filed a
13 Hazardous Materials Business Plan (HMBP) were also present. As part of my
14 review I specifically evaluated the facilities located near the proposed site for the
15 Faith Fellowship location. I could find no rational reason to deny their application
16 based on the perceived hazards.

17
18 7. I further examined the 196 properties that had been rezoned to the AU
19 Overlay District, to determine if those properties have similar exposures to
20 businesses with Hazardous Material Business Plans. I had a Staff Member actually
21 survey the areas involved in the primary cluster of AU Overlay zoned properties.
22 As a result of that review, I concluded and informed Peter MacDonald, Attorney for
23 Faith Fellowship Church, that there were few, if any, properties zone AU Overlay

1 that are not within 1/4 mile of business with a Hazardous Materials Business Plan,
2 prior to the City Council hearing on their appeal May 7, 2007.

3 8. Following the City Council denial on May 7, 2007, Faith Fellowship obtained
4 from official records of the City of San Leandro a list of all business addresses
5 within San Leandro that have filed HMBP's.

6 9. Using that HMBP address list and the list of all AU Overlay addresses,
7 I determined that a graphic depiction of the locations of HMBP addresses in relation
8 to AU Overlay parcel would visually demonstrate my conclusion that there are no
9 AU Overlay parcels more than 1/4 mile from a business with an HMBP. Exhibit B is
10 a graphic prepared by Land Plan Associates of Pleasanton (Dave Chadbourne,
11 Principle).

12 10. Exhibit B is the resulting document labeled Assembly Use Overlay
13 Parcels. I have generally reviewed the HMBP list (but not each address) and the AU
14 Overlay parcels, and conclude that Exhibit B is an accurate depiction of the
15 proximity of AU Overlay parcels to businesses with HMBP's.

16 11. Based upon the foregoing, I conclude that there is apparently no parcel
17 within the AU Overlay District that is not within 1/4 mile of a business with a
18 Hazardous Materials Business Plan.

19 25 I declare, under penalty of perjury under the laws of the State of California
20 and the United States of America, that the foregoing is true and correct and is of my
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1 own personal knowledge, and indicate such below by my signature executed on this
2 11th day of July, 2007, in the County of Alameda, City of San Leandro.
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4
5 /S/ Paul Gantt
6 Paul Gantt, Declarant
7
8
9

Attorney Attestation re Signature

10 I hereby attest that I have on file all holograph signatures for any signatures
11 indicated by a "conformed" signature (/S/) within this efiled document.
12
13

14 /S/ Kevin Snider
15 Kevin T. Snider
16 Mathew B. McReynolds
17 Peter D. MacDonald
18 Attorneys for Plaintiff and
19 Real Party in Interest
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